

Serial No.: 09/932,672

REMARKS/ARGUMENTS

This response is timely filed as it is filed within the provided one (1) month shortened statutory period for response.

Claims 1-43 remain in the application.

Formal Drawings

In the interest of appropriately advancing the application towards issuance, formal drawings for the application are submitted herewith.

Election/Restrictions

Restriction has been required under 35 U.S.C. §121 to one of the following inventions:

- I. “Claims 1-24, drawn to a method for *in situ* formation of an inflation gas-producing mixture, classified in class 149, subclass ---”; and
- II. Claims 25-43, drawn to an inflation gas-providing device, classified in class 422, subclasses 211, 305.

The Office Action sets forth that Inventions I and II are related as process and apparatus for its practice. The Action, citing MPEP §806.05(e), then states that inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. The Action further asserts that “In this case, the process of producing an inflation gas-producing mixture can be practiced by another materially different apparatus, such as the apparatus as disclosed in U.S. Patent No. 5,713,595 to Mooney et al.” (hereinafter “Mooney”).

The invention of Group I (i.e., claims 1-24) is provisionally elected with traverse.

As identified above, the outstanding Restriction Requirement has been traversed and reconsideration thereof is requested. While, as indicated above, the Action asserts that “In this case, the process of producing an inflation gas-producing mixture can be practiced by another materially different apparatus, such as the apparatus as disclosed in U.S. Patent No. 5,713,595 to Mooney et al.”, it is respectfully submitted that the relevant provision in MPEP §805.05(e) specifically and expressly states that “process and apparatus for its practice can be shown to be distinct

inventions, if . . . can be shown: (A) that the process as claimed can be practiced by another materially different apparatus or by hand . . .” (emphasis added.)

Thus, in accordance with the provisions of MPEP §806.05(e), the issue is whether the process as claimed can be practiced by another materially different apparatus or by hand. In the present instance, the Action asserts that “the process of producing an inflation gas-producing mixture can be practiced by another materially different apparatus, such as the apparatus as disclosed in U.S. Patent No. 5,713,595 to Mooney et al.” However, MPEP §806.05(e) specifically and expressly states the issue in terms of the “process as claimed”. Turning to method claim 1, this claim requires:

contacting a hydrocarbon-containing solid substrate material with an extraction fluid at conditions whereat the extraction fluid has a reduced density of at least 0.2 and a reduced density of no more than 2.0 wherein at least a portion of the hydrocarbon contained in the solid material is extracted into the extraction fluid to form an inflation gas-producing mixture.

Thus, such a claimed process requires that a hydrocarbon-containing solid substrate material be contacted with an extraction fluid at conditions whereat the extraction fluid has a reduced density of at least 0.2 and a reduced density of no more than 2.0 wherein at least a portion of the hydrocarbon contained in the solid material is extracted into the extraction fluid to form an inflation gas-producing mixture.

It is respectfully submitted that the Action has failed to show or otherwise sufficiently establish that such a claimed process can be practiced by another materially different apparatus let alone the apparatus disclosed in Mooney. For example, the claimed process requires the presence and use of a “hydrocarbon-containing solid substrate material”. The presence and/or use of such a hydrocarbon-containing solid substrate material in or by the apparatus of Mooney is at least not immediately evident. In fact, Mooney specifically and expressly provides for the inclusion of a gas-generating charge in a liquid form. (See column 3, lines 46-53.) In this regard, it is noted that Mooney specifically identifies “the superiority of this liquid charge over a solid charge.” (See column 4, lines 35-56, for example.)

In view of the above, it is respectfully submitted that the Action has failed to show or otherwise sufficiently establish that the process as claimed can be practiced by another materially different apparatus let alone the apparatus disclosed in Mooney.

Thus, it is respectfully requested that upon reconsideration the restriction requirement between the claims of Groups I and II be withdrawn.

Moreover, the MPEP requires that “if the search and examination of an entire application can be made without serious burden, the examiner must examine

it on the merits, even though it includes claims to independent or distinct inventions.”

(See MPEP §803.) It is respectfully submitted that a complete examination of the

claims of the above-elected Group I will require a search that also comprehends the

claims of Group II. More specifically, claim 1 is directed to a method comprising

5 contacting a hydrocarbon-containing solid substrate material with an extraction fluid

at conditions whereat the extraction fluid has a reduced density of at least 0.2 and a

reduced density of no more than 2.0 wherein at least a portion of the hydrocarbon

contained in the solid material is extracted into the extraction fluid to form an

inflation gas-producing mixture. Claim 25 is directed to an inflation gas-providing

10 device wherein a mixture including a hydrocarbon material and an oxygen-containing

material react to provide inflation gas, the gas-providing device comprising a

chamber having contents including a hydrocarbon-containing solid substrate material

and an extraction fluid at conditions whereat the extraction fluid has a reduced

density of at least 0.2 and a reduced density of no more than 2.0 and wherein at least

15 a portion of the hydrocarbon contained in the substrate material is extracted into the

extraction fluid to form an inflation gas-producing mixture. Clearly, a proper search

of the invention of claim 1 will require a search that encompasses inflation

gas-providing devices that include “a hydrocarbon-containing solid substrate material

with an extraction fluid at conditions whereat the extraction fluid has a reduced

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density of at least 0.2 and a reduced density of no more than 2.0 wherein at least a portion of the hydrocarbon contained in the solid material is extracted into the extraction fluid to form an inflation gas-producing mixture”, as required by claim 1.

5 In view of the above, it is again respectfully requested that upon reconsideration the restriction requirement between the claims of Groups I and II be withdrawn.

Conclusion

10 It is believed that the above elections are properly responsive to the requirements contained in the Action and that the application is in condition for substantive examination. Should the Examiner detect any issue or have any question which might be resolved via a telephone discussion, the Examiner is kindly requested to contact the undersigned by telephone at the (847) 490-1400, in an effort to expedite examination of the application.

Respectfully submitted,



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